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10/771,263	02/04/2004	Takayuki Shimada	829-620	1391

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EXAMINER
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CHIEN, LUCY P

ART UNIT	PAPER NUMBER
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2871

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10/22/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/771,263	<b>Applicant(s)</b> SHIMADA ET AL.	
	<b>Examiner</b> LUCY P. CHIEN	<b>Art Unit</b> 2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/30/2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 34-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 and 34-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claim 1-24,34-60 have been considered but are moot in view of the new ground(s) of rejection.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claim 1,3,14,16** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1,16 of U.S. Patent No. 6097452. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claims 1,14 are obvious over Claim 16 of U.S. Patent No. 6097452

Claims 3,16 are obvious over Claim 1 of U.S. Patent No. 6097452

**1. Reissue Declaration is Defective because:**

**Claims 1-24, 34-51** are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

(1) The reissue declaration filed on 6/28/04, does not *specifically identify the error* in the original claims 1-24 (in US 6,533,851), thus presenting new claims to correct the error (e.g. what the original claims **lacked** that the newly added claim has, etc.).

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Any error in the claims must be identified by reference to the specific claim(s) and the specific claim language wherein lies the error. See MPEP 1414.II. (C).

Applicant stated that " ... we believe that we had a right to claim the subject matter of the reissue application claims such as claims 34-51". This error statement does not identify the error and would not be considered a sufficient "**error**" statement because applicant has not pointed out what the other claims lacked (i.e., the issued claims 1-24 in US 6,433,851) that the newly added claim (i.e., claims added by this reissue) has, or vice versa. See MPEP 1414 II (C).

**Applicants have added claims 34-60 to provoke an interference (see Applicant's Statement under 37 CFR 41.202(a) filed on 7/6/07). Please note that a reissue cannot be based solely on to suggest copying claims for the purpose of establishing interference. See MPEP 1449.02.**

**2. Supplement Reissue Declaration is required because:**

(1) If additional defects or error are corrected in the reissue after the filing of the application and the original reissue oath or declaration, a supplemental reissue oath/declaration must be filed, unless all additional error corrected are spelling, grammar, typographical, editorial or clerical errors which are not errors under 35 U.S.C. 251 (see MPEP 1402). In other words, a supplemental oath/declaration is required where any "error" under 35 U.S.C. 251 has been corrected and the error was not identified in the original reissue oath/declaration.

Supplemental Reissue Declaration is required for the additional corrections/amendments which were filed on 7/6/07. Claims 34 and 43 were amended and claims 50-60 were newly added.

If a new declaration is submitted to state an error that supports this reissue then a supplemental declaration is not needed. See MPEP 1414.01 and FP 14.05.02

**3. The Amendments to the Claims are improper because Amendments do not comply with 37 CFR 1.173(c):**

The Amendment to the Claims filed on 7/6/07 is improper since the subject matter deleted from an original patent claim must be placed between brackets and the subject matter added by reissue to the original patent claim must be underlined. See 37 CFR 1.173(b)(2) and (d). See MPEP 1453.

Claim 34 is new claims added by reissue, thus all limitations in claim 34 should be underlined without bracket or strike through.

### ***Response to Arguments***

Applicant's arguments filed 8/30/2010 have been fully considered but they are not persuasive.

Applicant's arguments that "Applicants have provided evidence that acrylic resins may possess a range of dielectric constants outside of the claimed 3.0-3.5 range". That is why the examiner has provided Landa and Sunohara references to disclose that there are acrylic resins that possess a range of dielectric constant in the range of 3.0-3.5.

Applicant's arguments that "Noda only states that the planarization layer are suitably selected from acrylic resin or polyimide resin" Noda discloses using acrylic resin, but does not specifically state which acrylic resin, therefore examiner supplied Landa and Sunohara as references to disclose a specific acrylic resin such as tetracarboxylic acid di-anhydride moiety and methacrylate that can be used in Noda.

Applicant's arguments that "Landa's field of endeavor is remote from an unrelated to that of Noda, Landa discloses a method for developing latent electrostatic images for ap transfer to a carrier sheet" Landa is only used as a reference to disclose a scientific fact that methacrylate has a dielectric constant in a range of 3.0-3.5.

Therefore, the rejection is maintained.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5,14-17,21,34,35,43,44,52,53** are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al (US 5585951) and of Sunohara et al (US 5477360) in view of Moore et al (US 4877718)

Regarding Claim 1-5,14-17,21,34,35,43,44,52,53,

Noda et al (Fig. 2G - Fig. 30G) discloses a liquid crystal display device, gate lines (1330), source lines (S), switching elements (1700) each arranged near a crossing of each gate line and each source line, a gate electrode (1777) of each switching element being connected to the gate line (1330), a source electrode (S) of the switching element being connected to the source line (2204), a drain electrode (D) of the switching element being connected to a pixel electrode (1787) for applying voltage to a liquid crystal layer, wherein an photosensitive acrylic resin (column 5, rows 50-55 and column 9, rows 60-67) insulating layer is etched (1784). The insulating layer covers the drain electrode (D) to insulate from other electrodes, the gate line, and the source line. The pixel electrode (1787) is on the interlayer insulating film (1784), the pixel electrode (3017) overlaps the source line (S). The insulating film (1784) is 1.5  $\mu\text{m}$  or more (Fig. 17)

Noda et al does not disclose a photosensitive resin having a dielectric constant of 3.4 to 3.8, and a spectral transmittance of the transparent interlayer organic insulating film has a lower transmittance for blue light than that for green and red light.

Sunohara et al discloses the property of the polyimide having tetracarboxylic acid di-anhydride moiety having a dielectric constant of 3.5  $\mu\text{m}$ . (Column 10, rows 34-43).

Moore et al discloses (Column 3 and Column 4) an inherent photosensitive positive acting polyimide made of tetracarboxylic and dianhydride shown in the Eq2 diagram. (Column 3, rows 8-50). Therefore, Sunohara et al's disclosed polyimide is inherently photosensitive.

The acrylic resin taught by Noda et al that is photosensitive having a dielectric constant of 3.0- 3.5, are properties of an insulating layer which has a lower transmittance for blue light than for green and red light. Thus, wherein a spectral transmittance of the transparent interlayer organic insulating film has a lower transmittance for blue light than that for green and red light is met. (as explained in applicant's specification [0090] US 2001002857).

It would have been obvious to one of ordinary skill in the art at the time the invention was made modify Noda et al to further include Sunohara et al's dielectric constant of the polyimide and to include Moore et al's inherently photosensitive polyimide motivated by the desire to provide a polyimide resin which has good transparency and is useful to produce molded products with substantially no coloring and good thermal resistance (column 2, rows 4-10).

**Claims 1-5,12-17,21,23,24,34,35,37-39,43,44,46-48,52,53,55-57** are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al (US 5585951) and of Landa (US 4460667) in view of Miyagawa et al (US 5331344)

Regarding Claim 1-5,14-17,21,34,35,43,44,52,53,

Noda et al (Fig. 2G - Fig. 30G) discloses a liquid crystal display device, gate lines (1330), source lines (S), switching elements (1700) each arranged near a crossing of each gate line and each source line, a gate electrode (1777) of each switching element being connected to the gate line (1330), a source electrode (S) of the switching element being connected to the source line (2204), a drain electrode (D) of the switching element being connected to a pixel electrode (1787) for applying voltage to a liquid crystal layer, wherein an photosensitive acrylic resin (column 5, rows 50-55 and column 9, rows 60-67) insulating layer is etched (1784). The insulating layer covers the drain electrode (D) to insulate from other electrodes, the gate line, and the source line. The pixel electrode (1787) is on the interlayer insulating film (1784), the pixel electrode (3017) overlaps the source line (S). The insulating film (1784) is 1.5  $\mu\text{m}$  or more (Fig. 17)

Noda et al does not disclose a photosensitive resin having a dielectric constant of 3.4 to 3.8, and a spectral transmittance of the transparent interlayer organic insulating film has a lower transmittance for blue light than that for green and red light.

[Examiner is including reference of Landa (column 3, rows 48-50) only to show the scientific fact that the acrylic resin (metha methacrylate) used to make the insulator

in Noda et al has a dielectric constant property of 3.0-3.5 which are overlapping ranges of the claims ranges of 3.4-3.5. In re Aller, 105 USPQ 233.(therefore the date of the reference is irrelevant)]

It is not clear from Landa that the metha methacrylate is photosensitive. Examiner is including Miyagawa et al to disclose the photosensitive material is composed of methyl methacrylate(column 34, lines 50-52).

The acrylic resin taught by Noda et al that is photosensitive having a dielectric constant of 3.0- 3.5, are properties of an insulating layer which has a lower transmittance for blue light than for green and red light. Thus, wherein a spectral transmittance of the transparent interlayer organic insulating film has a lower transmittance for blue light than that for green and red light is met. (as explained in applicant's specification [0090] US 2001002857).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Noda et al to include Landa's dielectric constant fact of the acrylic resin motivated by the desire to produce a reliable photosensitive insulating film on top of the TFT to embed the irregularities on the surface of the device bus line are (abstract) to further include Miyagawa et al's methyl methacrylate motivated by the desire to produce a reliable photosensitive material (column 34, lines 50-52)

Regarding Claim 12,23

The limitation such as, "insulating film suppresses degradation by resist removing solution used to form the pixel electrode" is considered as product-by-process claim. Even though product-by-process claims are limited by and defined by the process,

determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same ~ or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777F.2d 695,698, 227 USPQ 964, 966 (Fed. Cir. 1985); see also MPEP 2113).

Regarding Claim 13,24,

In addition to Noda et al, Landa, and Miyagawa et al as disclosed above, since the transparent insulating layer disclosed by Noda et al is made of a same material and having the similar dielectric constant as the claimed transparent insulating layer, it would have at least been obvious to one of ordinary skill in the art at the time of the invention was made that the transparent insulating layer of Noda et al has a light transmittance of 90% or more for light within an entire wavelength range of about 400nm to about 800 nm.

Regarding Claim 37,46,55

In addition to Noda et al, Landa, and Miyagawa et al as disclosed above, Noda et al discloses (Fig. 13) wherein the pixel electrode (1322) overlaps the gate lines (1330) by about 1  $\mu\text{m}$  or more (1.5  $\mu\text{m}$ )

Regarding Claim 38,39,47,48,56,57

In addition to Noda et al, Landa, and Miyagawa et al as disclosed above, Noda (column 8, rows 50-55) discloses a semiconductor layer on top of the gate insulating layer which is of amorphous silicon.

**Claims 6-11,18-20,22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al (US 5585951) and of Landa (US 4460667) and of Miyagawa et al (US 5331344) in view of Takatoh et al (US 5128788).

Regarding Claim 6-9,11,18-20,22

Noda et al, Landa, and Miyagawa et al disclose everything as disclosed above.

Noda et al, Landa, and Miyagawa et al do not disclose the use of a positive type photosensitive resin including a copolymer glycidyl.

Takatoh et al (Column 4, rows 5-20) discloses the use of a positive type photosensitive resin including a copolymer glycidyl added for a thermally reactive function which has a reactive peak at a wavelength of 365 nm.

It would have been obvious to one of ordinary skill in the art to modify Noda et al, Landa, and Miyagawa et al to include Takatoh positive type photosensitive resin including a copolymer glycidyl motivated by the desire to add a thermally reactive function (Column 4, rows 5-20).

Regarding Claim 10,

In addition to Noda et al, Landa, Miyagawa et al and Takatoh et al as disclosed above, Noda discloses the transparent interlayer organic insulating film is cured (column 11, rows 15-20).

**Claims 40,41,49,50,58,59** are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al (US 5585951) and of Landa (US 4460667) Miyagawa et al (US 5331344) in view of Shoji et al (US 5051800).

Noda et al, Landa, and Miyagawa et al disclose everything as disclosed above.

Noda et al, Landa, and Miyagawa et al do not disclose a contact layer made of amorphous silicon over the semiconducting layer.

Shoji et al discloses (Fig. 8) a contact layer made of amorphous silicon (17a,17b) over the semiconducting layer (15).

It would have been obvious to one of ordinary skill in the art to modify Noda et al, Landa, and Miyagawa et al to include Shoji et al's contact layer made of amorphous silicon (17a,17b) over the semiconducting layer (15) motivated by the desire to provide that restricts deteriorations of the display quality. (Abstract).

**Claims 36,45,54,60** are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al (US 5585951) and of Landa (US 4460667) Miyagawa et al (US 5331344) in view of Mori et al (US 5359441).

Noda et al, Landa, and Miyagawa et al disclose everything as disclosed above.

Noda et al, Landa, and Miyagawa et al do not disclose the pixel aperture is at least about 65% or 80%.

Mori et al disclose the pixel aperture is at least about 80% to improve the efficiency of the utilized light.

It would have been obvious to one of ordinary skill in the art to modify Noda et al, Landa, and Miyagawa et al to include Mori et al's pixel aperture is at least about 80% to improve the efficiency of the utilized light (Column 6, rows 1-10).

**Claims 42,51** are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al (US 5585951) and of Landa (US 4460667) Miyagawa et al (US 5331344) in view of Wakai et al (US 5229644).

Regarding Claim 42,51.

Noda et al, Landa, and Miyagawa et al discloses everything as disclosed above.

Noda et al, Landa, and Miyagawa et al do not disclose the thickness of the pixel electrodes is no greater than 1500A.

Wakai et al discloses the thickness of the pixel electrodes is no greater than 1500A (column 5, rows 10,11).

It would have been obvious to one of ordinary skill in the art to modify Noda et al, Landa, and Miyagawa et al to include Wakai et al's pixel electrode thickness motivated by the desire to be able to connect to the drain through the insulating layer.

**Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUCY P. CHIEN whose telephone number is (571)272-8579. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571)272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lucy P Chien  
Examiner  
Art Unit 2871

/David Nelms/

Supervisory Patent Examiner, Art Unit 2871